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U.S. District Court
Western District of Oklahoma[LIVE] (Oklahoma City)
CRIMINAL DOCKET FOR CASE #: 5:19-mj-00333-STE-1

Case title: United States of America v. Benvie

Date Filed: 06/21/2019

Other court case number: CR-19-1715-RB District of New
Mexico

Assigned to: Magistrate Judge Shon T.
Erwin

Defendant (1)

James Christopher Benvie

represented by **William P Earley**
Federal Public Defender-OKC
215 Dean A McGee Ave
Suite 109
Oklahoma City, OK 73102
405-609-5930
Fax: 405-609-5932
Email: william_earley@fd.org
ATTORNEY TO BE NOTICED
Designation: Public Defender

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

United States of America

represented by **David P Petermann**
 US Attorney's Office—OKC
 210 W Park Ave
 Suite 400
 Oklahoma City, OK 73102
 405-553-8700
 Fax: 405-231-5876
 Email: david.petermann@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Date Filed	#	Page	Docket Text
06/21/2019			Arrest of James Christopher Benvie in Western District of Oklahoma. (rmc) (Entered: 06/21/2019)
06/21/2019	<u>1</u>		RULE 5(c)(3) Documents Received as to James Christopher Benvie. (rmc) (Entered: 06/21/2019)
06/21/2019	<u>2</u>	4	ENTRY OF ATTORNEY APPEARANCE: William P Earley appearing for James Christopher Benvie (Earley, William) (Entered: 06/21/2019)
06/21/2019	<u>3</u>	6	** SEALED DOCUMENT ** CJA 23 Financial Affidavit by James Christopher Benvie. (lb) (Entered: 06/21/2019)
06/21/2019	<u>4</u>	7	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Bill Earley as to James Christopher Benvie. Signed by Magistrate Judge Shon T. Erwin on 6/21/19. (lb) (Entered: 06/21/2019)
06/21/2019	<u>5</u>	8	MINUTE ENTRY for proceedings held before Magistrate Judge Shon T. Erwin: Initial Appearance in Rule 5(c)(3) as to James Christopher Benvie held on 6/21/2019. Defendant waived identity hearing. Detention Hearing set for 6/25/2019 at 1:30 PM in Courtroom 103 before Magistrate Judge Shon T. Erwin. Defendant temporarily detained pending detention hearing; Defendant remanded to custody of USM. (lb) (Entered: 06/21/2019)
06/21/2019	<u>6</u>	9	WAIVER of Rule 5(c)(3) Hearings by James Christopher Benvie. (lb) (Entered: 06/21/2019)
06/21/2019	<u>7</u>	10	ORDER OF TEMPORARY DETENTION as to James Christopher Benvie. Signed by Magistrate Judge Shon T. Erwin on 6/21/19. (lb) (Entered: 06/21/2019)
06/21/2019	<u>8</u>	11	NOTICE OF HEARING as to James Christopher Benvie. Detention Hearing set for 6/25/2019 at 1:30 PM in Courtroom 103 before Magistrate Judge Shon T. Erwin. (lb) (Entered: 06/21/2019)
06/25/2019	<u>10</u>	12	MINUTE ENTRY ~ for proceedings held before Magistrate Judge Shon T. Erwin: Detention Hearing as to James Christopher Benvie held on 6/25/2019. Govt. introduces exhibit; Govt. introduces photo Exhibits 1 and 2 for the Courts review. Gov. introduced and played a 12 min youtube. As stated on the record Dft. is remanded to the custody of the U.S. Marshal with a delay of release pending Halfway House placement in Las Cruces. Dft. is released on \$5,000.00 Bond with Conditions per Release Order. (dwl) (Entered: 06/25/2019)

06/25/2019	<u>11</u>	13	ORDER Setting Conditions of Release as to James Christopher Benvie. Signed by Magistrate Judge Shon T. Erwin on 6/25/2019. (dwl) (Entered: 06/25/2019)
06/25/2019	<u>12</u>	16	Unsecured Bond Entered as to James Christopher Benvie in amount of \$ 5,000.00. (dwl) (Entered: 06/25/2019)

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NUMBER: M-19-333-STE
)	
JAMES CHRISTOPHER BENVIE,)	
)	
Defendant.)	

ENTRY OF APPEARANCE

To the Clerk of this Court and all parties of record:

Enter my appearance as counsel in this case for Defendant, James Christopher Benvie.

I certify that I am admitted to practice in this court and am registered to file documents electronically with this Court.

June 21, 2019

s/ William P. Earley
WILLIAM P. EARLEY
ASSISTANT FEDERAL PUBLIC DEFENDER
Oklahoma Bar Number: 11293
FEDERAL PUBLIC DEFENDER ORGANIZATION
WESTERN DISTRICT OF OKLAHOMA
215 Dean A. McGee Suite 109
Oklahoma City, Oklahoma 73102
Telephone: 405-609-5930
Telefacsimile: 405-609-5932
Electronic Mail: William_Earley@fd.org
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2019, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the electronic records currently on file, the Clerk of Court will transmit a Notice of Electronic filing to the David Petermann, Assistant United States Attorney.

s/ William P. Earley
WILLIAM P. EARLEY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

VS.

JAMES CHRISTOPHER BENVIE

Defendant

Case Number: M-19-333-STE

Charging District: District of New MexicoCharging District's Case Number: CR-19-1715-RB

ORDER APPOINTING COUNSEL

The above-named defendant having completed an affidavit as to financial ability to employ counsel, and upon review, the Court finds:

☒ That the affiant is financially unable to obtain counsel.

☒ Federal Public Defender is appointed to represent the above-named defendant in all further proceedings in this District unless and until relieved by order of the Court. Bill Earley

☐ Federal Public Defender shall forth with furnish the name of a private attorney for appointment to represent the defendant. _____

☐ That the defendant is eligible for appointment of counsel, but has income or assets in excess of that needed for support of defendant and dependents, and therefore:

☐ Defendant will reimburse the government for the cost of providing representation commensurate with his / her ability to pay as determined by further order of the Court. _____

☐ That Defendant is not eligible for appointment of counsel but is entitled to both an immediate hearing and to the assistance of counsel and therefore,

☐ The Federal Public Defender is temporarily appointed to represent the defendant for purposes of initial appearance only.

Friday, June 21, 2019

Date

Shon T. Erwin

SHON T. ERWIN

UNITED STATES MAGISTRATE JUDGE

CRIMINAL COURTROOM MINUTE SHEET
INITIAL APPEARANCE on RULE 5

DATE: Jun 21, 2019

CASE: M-19-333-STE

TIME IN COURT: 15 mins

COURTROOM: 103

MAGISTRATE JUDGE SHON T. ERWIN

COURTROOM DEPUTY RAVEN MCDANIEL

UNITED STATES OF AMERICA vs. JAMES CHRISTOPHER BENVIEDefendant States true and correct name as: Same AGE: _____Government Cnsl: David PetermannDefendant Cnsl: Bill EarleyU.S. Probation Officer: Candice Shane

Public Defender

☒ Defendant Appears, custody of U.S. Marshal with Counsel Interpreter: _____☐ Defendant advised of his / her right of consular notification, _____☒ Defendant informed of his / her right to retain counsel or to request that counsel be appointed if he / she cannot obtain counsel.☒ Dft informed that he / she is not required to make a statement and that any statement made by him / her may be used against him / her.☒ Defendant informed of the ☐ Complaint ☒ Indictment and the charges pending against him / her in the prosecuting district.Charging District: District of New Mexico Charging District case number: CR-19-1715-RB

PRELIMINARY / RULE 5

☐ Defendant informed of his/her right to a Preliminary hearing.☐ Defendant waives preliminary hearing; Written waiver entered.☐ Defendant requests the preliminary hearing be conducted in the prosecuting district.☐ Defendant requests the preliminary hearing be conducted in this district☐ Preliminary hearing is set for: _____☐ Preliminary hearing not required.☒ Defendant waives identity hearing; Written waiver entered.☐ Defendant advised of the provisions of Rule 20.☐ Government produces the original warrant, a certified copy of the warrant or a reliable electronic form of either.☐ Defendant waives production of original, certified copy or reliable electronic form of warrant.

RELEASE / DETENTION

☐ Government recommends defendant be released on _____☒ Government recommends defendant be detained based on Risk of Flight and Danger to the Community☐ Government _____☐ Upon motion of the Government and request for continuance by _____☒ Detention Hearing is set for Tuesday, June 25, 2019 at 1:30 p.m.☐ Defendant requests that the detention issue be held in abeyance until defendant is returned to charging district. The court finds good cause to exceed the time limits set forth by the Bail Reform Act, if necessary, in order to allow the U.S. Marshal sufficient time to transport defendant to the charging district. Defendant remanded to the custody of the U.S. Marshal.

The Court Orders:

☐ The United States Marshal for the Western District of Oklahoma is to remove defendant to the district in which he/she is charged and deliver defendant to the United States Marshal for that district or to some other officer authorized to receive him. Written Order entered.☒ Defendant temporarily detained pending detention hearing. Written Order entered. Defendant remanded to the custody of the U.S. Marshal.☐ Unsecured Bond set at _____ with conditions per Release Order.☐ Secured Bond set at _____ with conditions per Release Order as the Court finds that the release of the Defendant on a personal recognizance bond or unsecured appearance bond would not reasonably assure his / her appearance in court and the safety of the community.☐ Defendant remanded to the custody of the U.S. Marshal.☐ Defendant to report for further proceedings in the District Court in which prosecution is pending as follows:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA)

VS.)

Case Number: M-19-333-STEJAMES CHRISTOPHER BENVIE)

Defendant)

Charging District: District of New MexicoCharging District's Case Number: CR-19-1715-RB

WAIVER OF RULE 5 and 5.1 HEARINGS
(Complaint or Indictment)

I understand that I have been charged in another district:
the (name of other court) District of New Mexico.

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or reliable electronic copy of either;
- (4) a preliminary hearing within 14 days of my first appearance if I am in custody and 21 days otherwise--unless I am indicted--to determine whether there is probable cause to believe that an offense has been committed;
- (5) a hearing on any motion by the government for detention;
- (6) request transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☒ an identity hearing.
- ☐ production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.

I request that the following hearing(s) be held in the prosecuting district, at a time set by that court.

- ☐ a preliminary hearing.
- ☐ a detention hearing.

I realize that the detention hearing in the prosecuting district may not occur within the three and five day time limits, set forth in the Bail Reform Act, but I request the Court to find good cause to exceed those time limits if it takes the Marshal more time to transport me to the prosecuting district, as I want the hearing to be held in the prosecuting district.

6-21-19
Date

[Signature]
Defendant

[Signature]
Attorney for Defendant

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

vs.

JAMES CHRISTOPHER BENVIE

NOTICE

CASE NO. M-19-333-STE

IN CUSTODY

TYPE OF CASE:

☐ CIVIL ☒ CRIMINAL

TAKE NOTICE that a proceeding in this case has been set for the place, date, and time set forth below:

PLACE:

William J. Holloway Jr. United States Courthouse
200 N.W. 4th Street
Oklahoma City, OK 73102

ROOM NO.:

Courtroom No. 103

DATE AND TIME:

Tuesday, June 25, 2019, at 1:30 p.m.

TYPE OF PROCEEDING:

DETENTION HEARING

TAKE NOTICE that a proceeding in this case has been *rescheduled* as set forth below:

PLACE:

William J. Holloway Jr.
United States Courthouse
200 N.W. 4th Street
Oklahoma City, OK 73102

DATE AND TIME PREVIOUSLY SCHEDULED:

RESCHEDULED DATE AND TIME:

SHON T. ERWIN

U.S. MAGISTRATE JUDGE

June 21, 2019

Date

s/Raven McDaniel

(By) Deputy Clerk

CRIMINAL COURTROOM MINUTE SHEET

DETENTION HEARING

DATE: Jun 25, 2019

CASE: M-19-333-STE

TIME IN COURT: 2.5 hours

COURTROOM: 401

MAGISTRATE JUDGE SHON T ERWIN

COURTROOM DEPUTY D WAYNE LEE

UNITED STATES OF AMERICA vs. JAMES CHRISTOPHER BENVIE

Defendant States true and correct name as: _____ AGE: _____

Government Cnsl: David Petermann

Defendant Cnsl: Bill Earley

U.S. Probation Officer: _____

☒ Defendant Appears, custody of U.S. Marshal with Counsel

Interpreter: _____

☐ Defendant advised of his / her right of consular notification, _____☐ Court inquires of Government regarding notification of victim(s) under Justice for All Act.☐ Parties announce ready. ☐ Parties provided with a _____

WITNESSES FOR GOVERNMENT

1. SA SHANDON DEVESTEY
2. _____
3. _____

WITNESSES FOR DEFENDANT

1. _____
2. _____
3. _____

- ☐ Government and Defendant make opening statement.
- ☐ Government withdraws request for detention and recommends defendant be released on bond with conditions per release Order.
- ☐ Defendant waives right to detention hearing. Waiver of Detention Hearing and Consent to Order of Detention pending further proceedings entered. Defendant remanded to custody of U.S. Marshal.
- ☐ Defendant requests the Detention Hearing be postponed at this time reserving the right to request a hearing at a later date should dft's circumstances change. Defendant remanded to custody of U.S. Marshal.
- ☒ Government introduces evidence with testimony of 1 witness(es) and rests.
- ☐ Defendant introduces evidence with testimony of _____ witness(es) and rests.
- ☐ Government ☐ Defendant rest(s) without introducing evidence.
- ☒ Government ☒ Defendant proffer(s) evidence and rests.
- ☒ Government ☒ Defendant make(s) closing statements.

The Court Orders:

- ☐ The Court finds good cause to exceed the 3 and 5 day time limits provided by the Bail Reform Act. A detention hearing will not be held at this time based upon Defendant's circumstances. Should defendant's circumstances change, a detention hearing will be promptly held upon request of either party.
- ☒ Defendant detained pending trial; Detention Order to be entered. Defendant remanded to custody of USM.
- ☐ Unsecured Bond set at _____ with conditions per Release Order.
- ☐ Secured Bond set at _____ with conditions per Release Order as the Court finds that the release of the Defendant on a personal recognizance bond or unsecured appearance bond would not reasonably assure his / her appearance in court and the safety of the community.
- ☐ Defendant remanded to the custody of USM pending execution of bond.
- ☐ Defendant remanded to the custody of USM.

*Govt. introduces exhibit; Govt. introduces photo Exhibits 1 and 2 for the Courts review. Gov. introduced and played a 12 min youtube.

As stated on the record Dft. is remanded to the custody of the U.S. Marshal with a delay of release pending Halfway House placement in Las Cruces. Dft. is released on \$5,000.00 Bond with Conditions per Release Order.